IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 23033 of 2005

Between:

Ch. Uma Maheswara Rao

..... PETITIONER

AND

Circle Inspector of Police

Dasari Village & Mandal,

Prakasam District and another

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the inaction for release of the Auto Riksha bearing registration No.AP-16TT-3762 ceased by the respondents in Crime No.13/2003, kept in the custody of the Judicial First Class Magistrate, Darsi, Prakasham District in spite of the petition filed under section 457 of Cr.P.C in CFR No.2766/2003 in CC No.146/2003 and the specific directions to the Magistrate to pass appropriate orders for release of the vehicle in accordance with law by order of this Court in W.P.No.7881/2004, dated 26.04.2004, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Home.

It is the case of the petitioner that himself and his son Jaya Prakash purchased Auto Riksha bearing No.AP-16TT-3762 in the name of his daughter-in-law Smt.Chanumolu Srilakshmi. On 29.04.2003 when his son Jayaprakash and daughter-in-law Ch.Srilakshmi and his grand daughter Ch.Jagadeswari were traveling in the said auto-rickshaw, it met with an accident and all the three persons died, and the said auto was seized by the respondents. The petitioner is only the legal heir and entitled to get the said auto. Earlier the petitioner filed W.P.No.7881 of 2004 before this Court when the respondents have not produced the said vehicle before the concerned Court and the said writ petition was disposed of by this court, by order dated 26.04.2004, directing the respondents to produce the said vehicle before the concerned Court and this Court also made a direction to the Judicial First Class Magistrate, Darsi to pass appropriate orders on the petition that has to be filed by the petitioner for release of the vehicle. Accordingly, the respondents produced the vehicle before the concerned Magistrate and the petitioner filed application under Section 457 of Cr.p.c. before the concerned Magistrate and sought for release of the vehicle. The said application is numbered as CFR No.2766 of 2003 in CC.No.146/2003. Though there are specific directions by this Court, the concerned Magistrate has not passed appropriate orders on his application for release of the

vehicle.

A perusal of the docket order in CFR No.2766/2003 in CC.No.146/2003 shows that the learned Magistrate has been adjourning the matter without there being any reasons, from time to time from 29.09.2003 to 18.10.2005. There is no justification on the part of the learned Magistrate in not releasing the vehicle to the petitioner despite of directions issued by this Court in W.P.No.7881/2004.

In that view of the matter, I deem it appropriate to allow the writ petition, with a direction to the learned Judicial First Class Magistrate, Darsi, Prakasam District to release the Auto Riksha bearing No.AP-16TT-3762 to the petitioner forthwith on obtaining an undertaking from the petitioner to produce the said vehicle as and when required during trial of CC.No.146/2003.

With the above observations, the Writ Petition is allowed. No order as to costs.

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V.ESWARAIAH,J

Dated: 26.10.2005

Dsr